

# KEYSTONE

## M.10646 MICROSOFT/ACTIVISION ORAL HEARING

### *ECONOMIC CONSIDERATIONS*

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# SO is lightweight and short on evidence

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**All about single input foreclosure**

**One piece of content (CoD, or at most “CoD+”)**

***But evidence is just not there***

**Economic work is thin, peripheral, or redacted**

# “Exclusivity” and “foreclosure” not the same in economics

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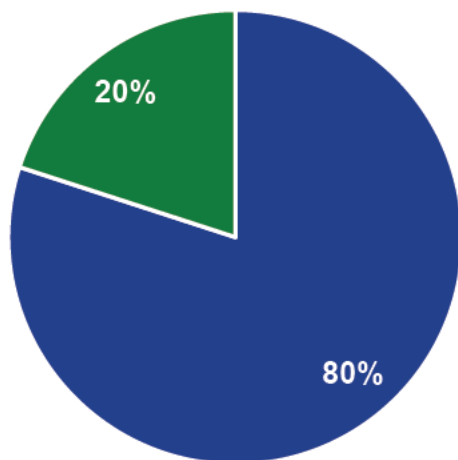
**Need *strong market power* to “leverage”  
& *credible shifting mechanism***

**SO has no evidence that Sony can be *meaningfully*  
foreclosed even if it lost access to Call of Duty**

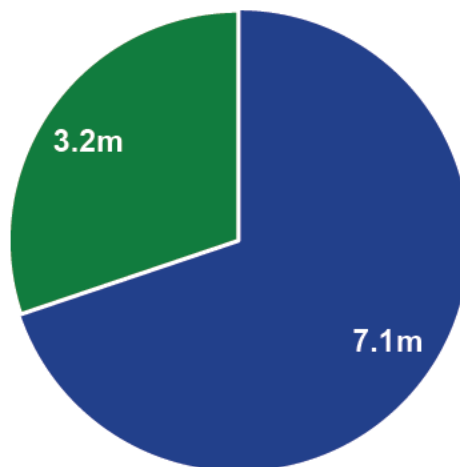
# “Foreclosure” of the dominant player is a most unusual claim



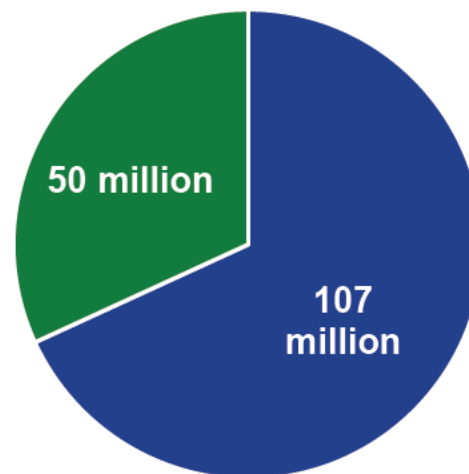
Installed base shares,  
2022, EEA



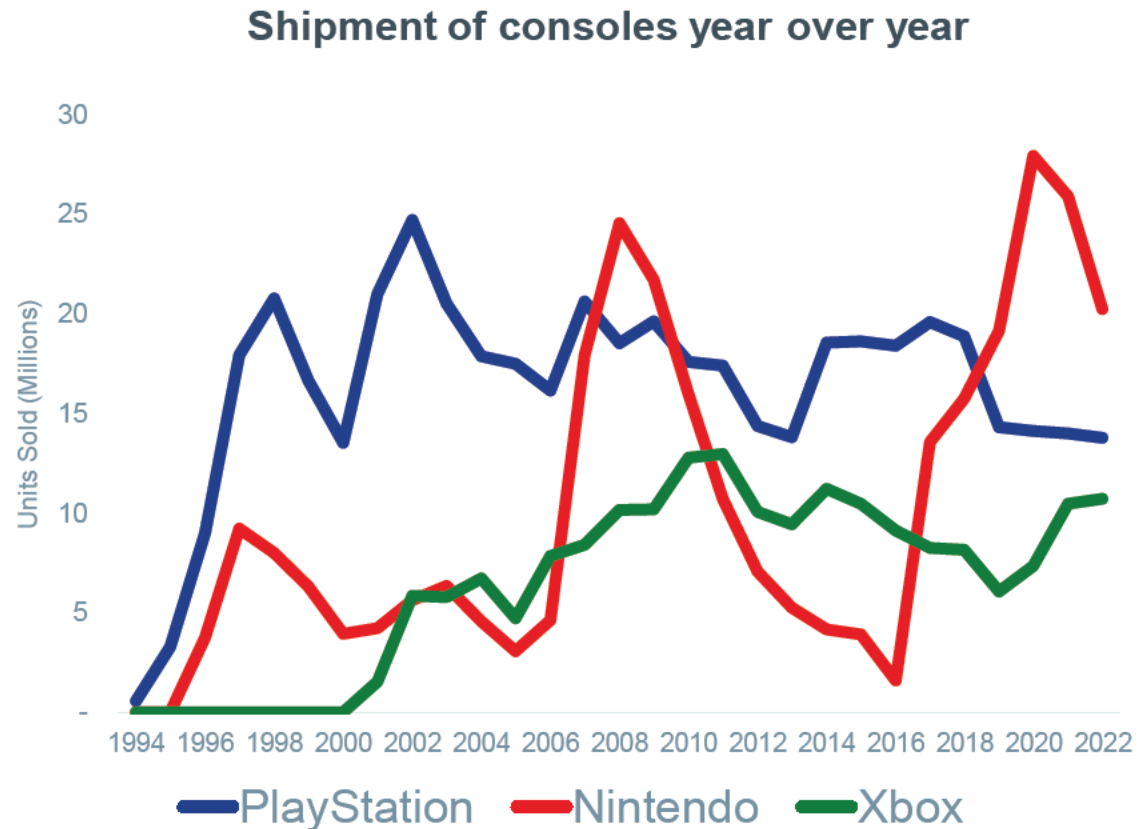
Q4 2022 console unit  
sales



Avg. MAU WW, 2022



# Exclusives are standard in the industry, could one more be credibly weaponised as “foreclosing mechanism”?



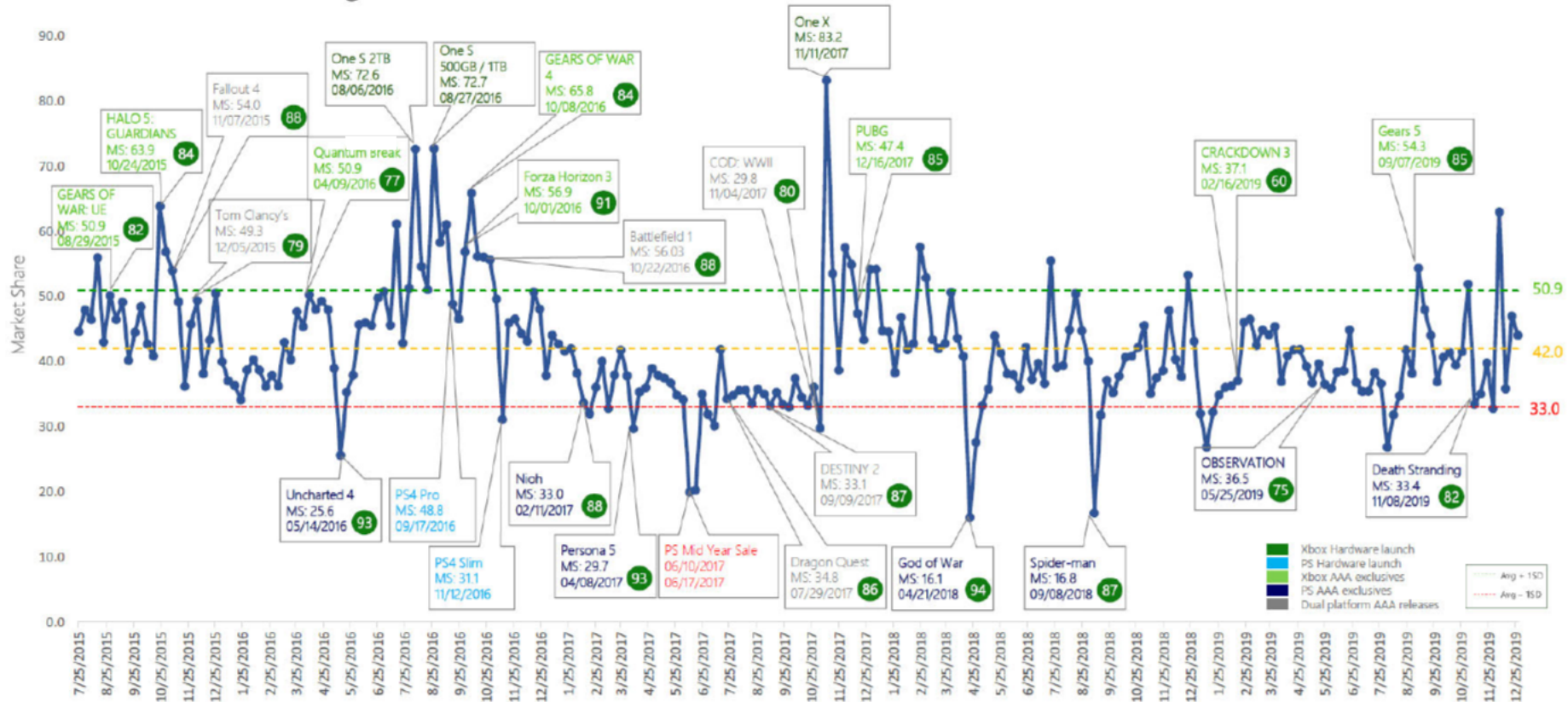
Why would CoD be any different?

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# Exclusives shift share back and forth, effects are short-lived

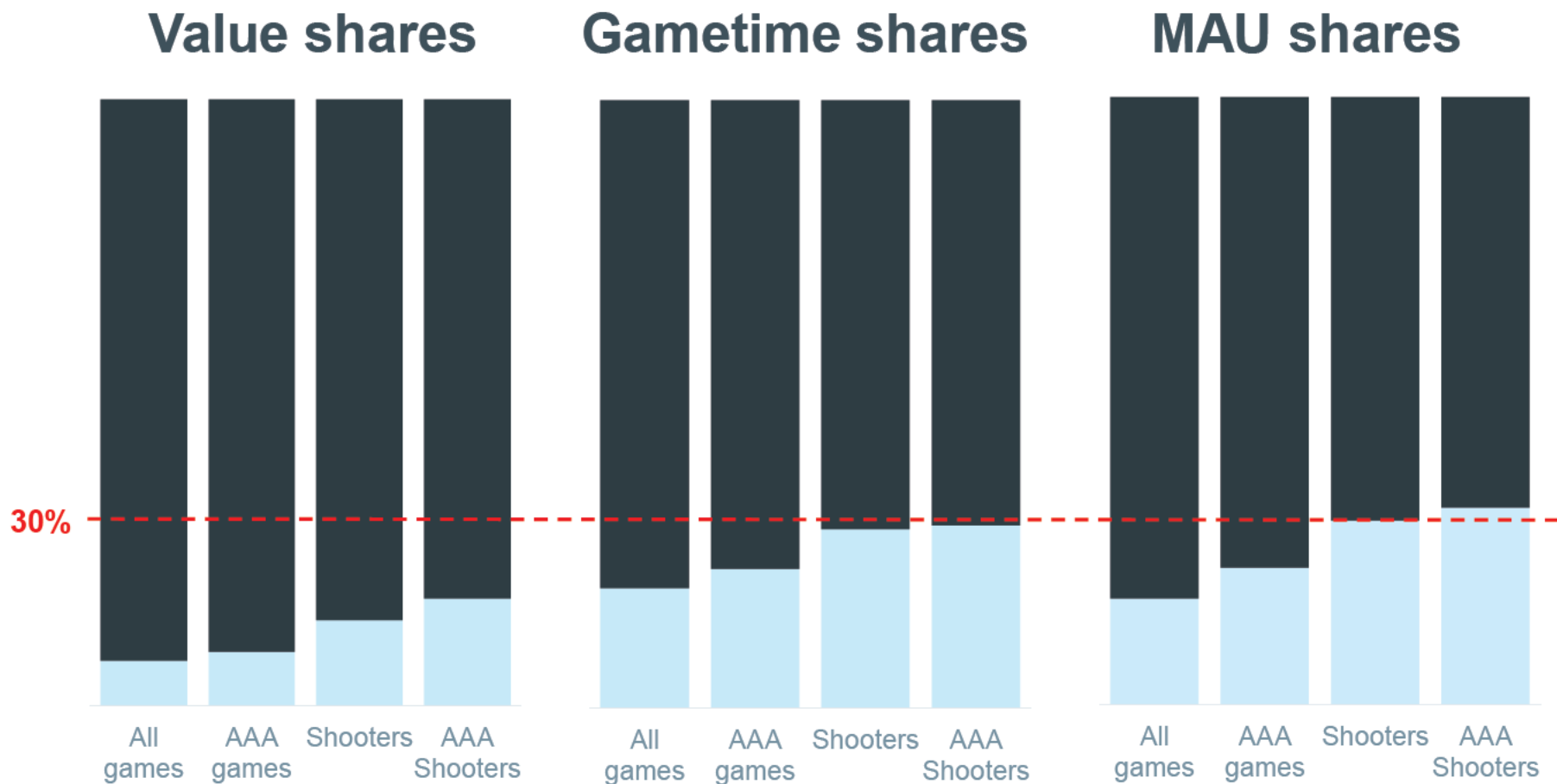
Xbox vs PlayStation NA share of weekly sales 2015-2019



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# Foreclosure by leveraging *what power?*



Shares in 2021 EEA.

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# No credible measure of “the shift” away from PS/to Xbox

NO OWN EVIDENCE OR  
ANALYSIS IN THE SO

Adopts Sony's rule

Gamers who spend **more  
than 40% of their time on  
COD** would switch to Xbox

■ **% of PS gamers would “switch”**  
(based on Xbox data)

**BUT**

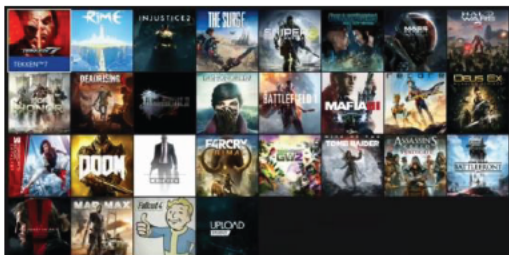
1

*Everyone* playing CoD  
even for an hour in a  
year would switch?

2

Assumes Xbox would  
have full recapture

# “Switching” means completely abandoning your PS?

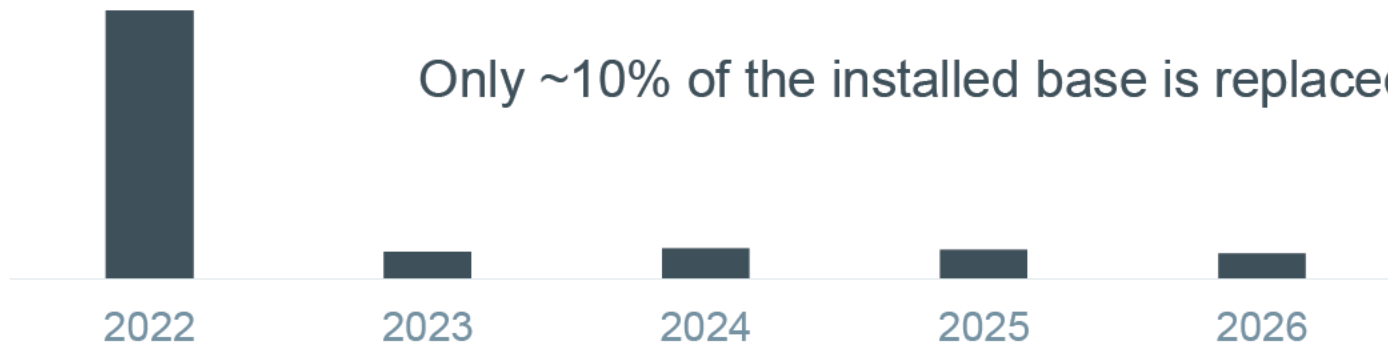


Would gamers leave their library of games and friends community ?



PlayStation consoles will not be abandoned.

Only ~10% of the installed base is replaced over time



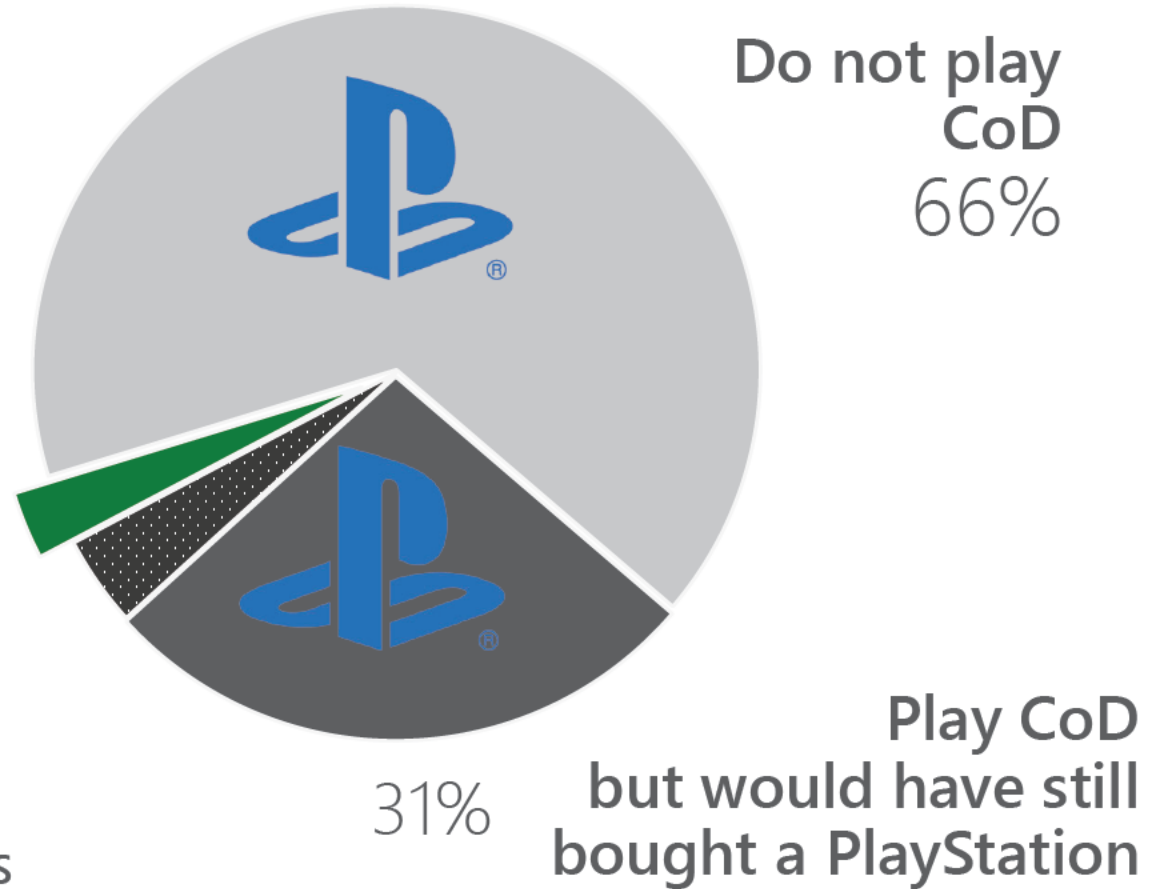
150m PS  
installed base

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# We actually did measure the impact of exclusives: What would existing PS gamers do if Call of Duty were not on PS?

YouGov®

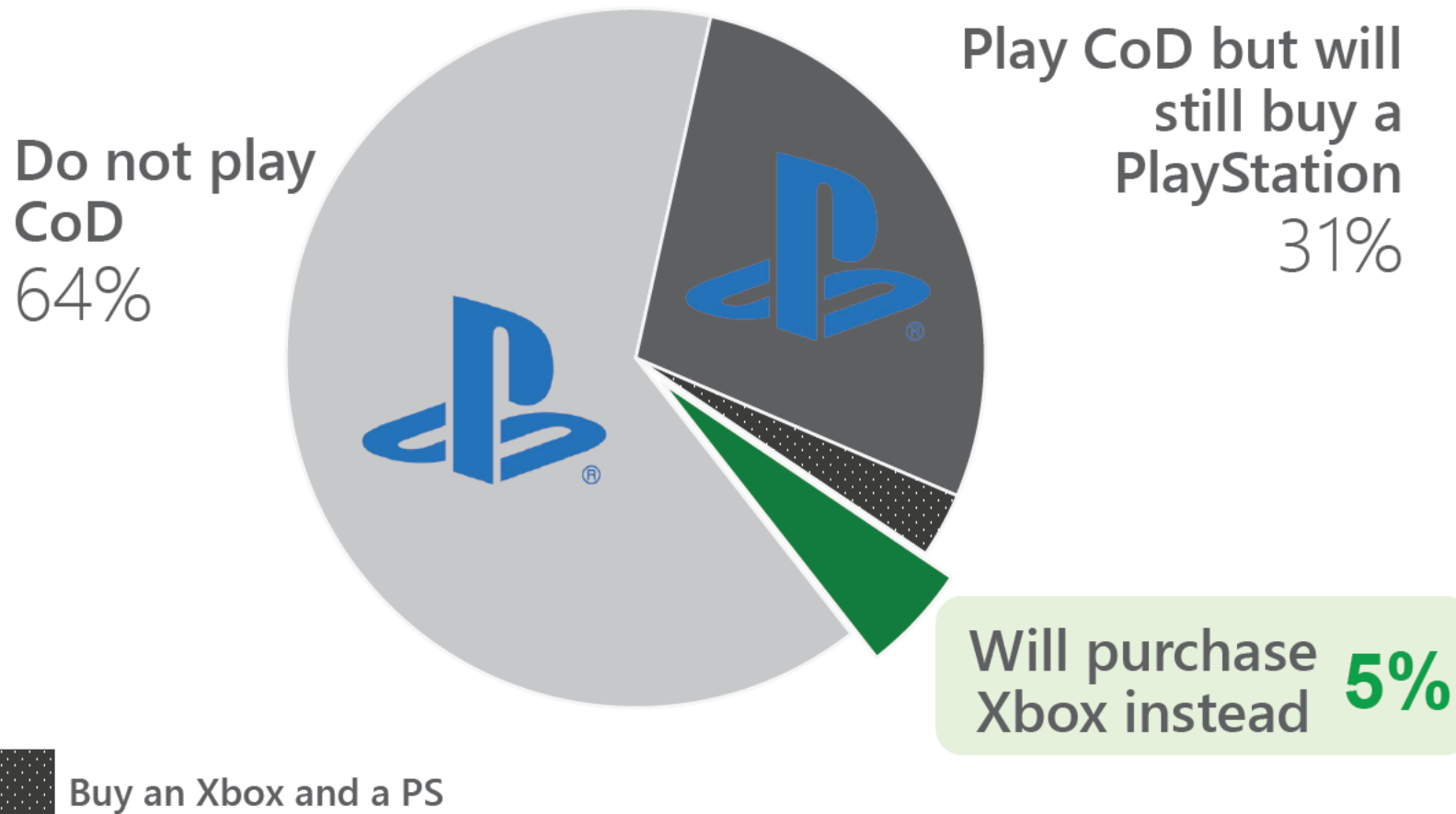


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## What would gamers planning to buy a PS do if CoD were not on PS?

YouGov®

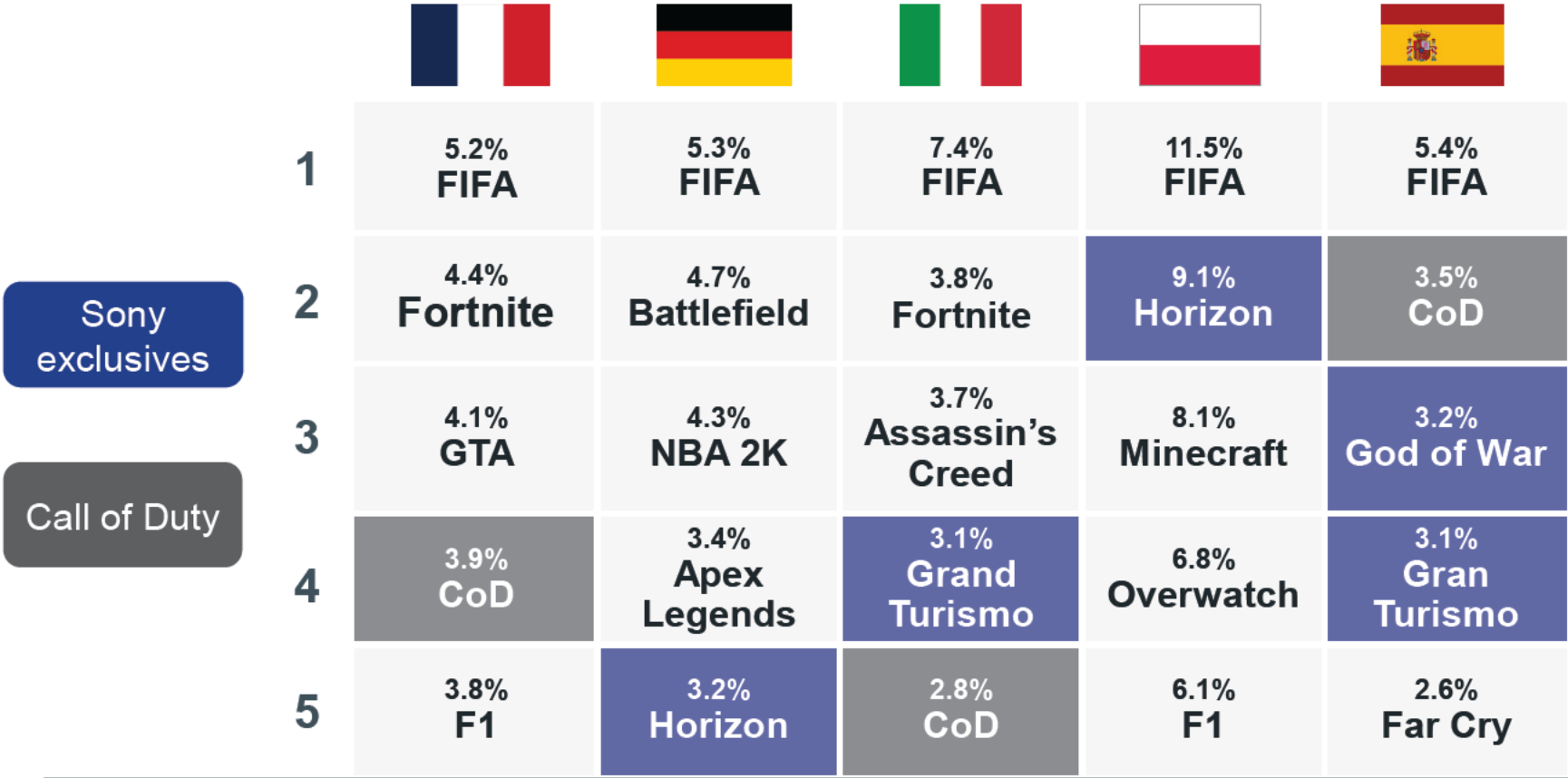


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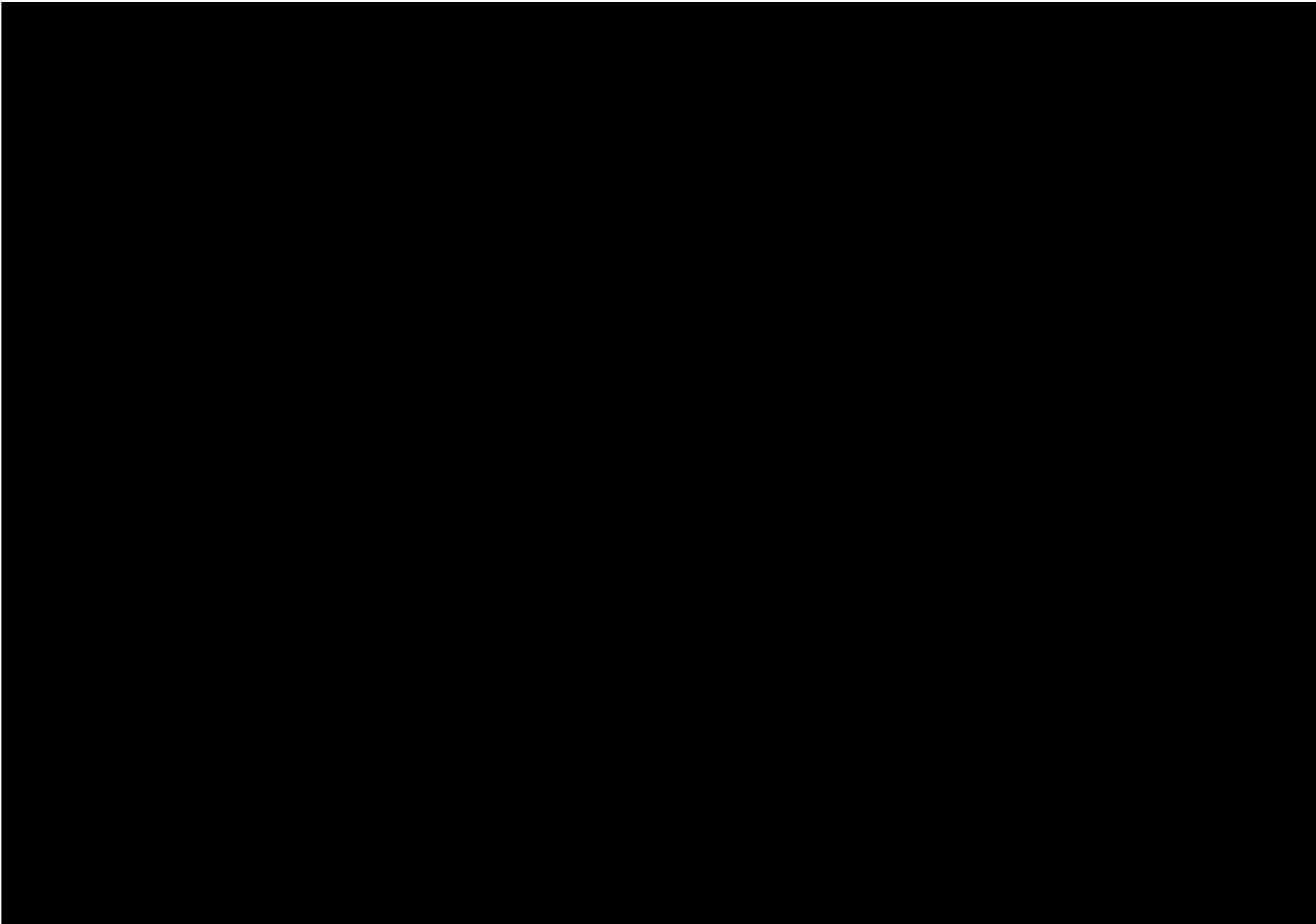
# CoD is less important to PS gamers than many titles inc. PS exclusives

Share of PS gamers buying an Xbox if their “game X” was not on PS



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# SO Economic Annex is perfunctory (and just for consoles)

1

...what incentive analysis?

Annex Table 1: Critical diversion ratios for four scenarios

[...]

Source: Commission calculations

- **Only available in the Data Room**
- **Derivative** of what Sony submitted
- **Inflates switchers** with a crude rule
- Does not engage with **value of a gamer**

2

Bargaining model is minimalist

- Toy model “formally showing” Xbox would have more power in negotiations (!)
- Prices of CoD/ consoles do not move. Claim of PS price increase “outside the model”
- **No welfare implications** as effects are reversed once the model is “corrected”

3

Econometrics is irrelevant/ inconclusive

- **Cross-genre substitution is clearly there**
- Basic errors
- Essentially concludes that this year’s CoD is a good substitute for last year’s CoD...

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## No evidence on TOH2 –

“strategically withholding CoD from subscription/cloud streaming”

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**SO assumes availability of CoD will drive choice of subscription/cloud streaming**

**Content influencing choice**

**Shooters**

**AAA Shooters**

**CoD?**

**NO EVIDENCE** that

- CoD as a single game can drive gamers' choice of cloud streaming service
- CoD would have been pivotal to the development of these services
- Cloud is going to overcome current obstacles in what timeframe



SO repurposes withholding as a “technical tie” leveraging ABK games to protect “dominance” in Windows PC OS from future competition (Chrome)

1

Restrict ABK games from rival cloud services **on rival PC OS**



2

Restrict Game Pass Ultimate **on rival PC OS**



Dressed up as a “tie”, but still entirely an input foreclosure story (withholding CoD from Chrome...)

## Attempts to echo *Android* ? “a tie to protect incumbency”?



?

NO

Android analogy does not work

Google Play was a “must have” on Android devices and *could be leveraged*, but *analogy is just not there*.

- Where is evidence CoD or ABK has enough market power to be leveraged into protecting Microsoft’s OS?
- SO produces **no evidence** other than repurposing Google’s complaint
- **CMA discards the TOH** entirely

PC users who played  
ABK games (■%)



# Conclusions

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**The SO is sparse on economic analysis**

**Three variants of an “input foreclosure story”,  
all implausible**

- **Consoles:** just cannot “foreclose Sony, the dominant console player
- **Cloud streaming:** no evidence future competition depends on CoD
- **Operating System competition:** no evidence OS choice is dependent on CoD

**Adding up three weak stories does not make a decent one**